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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,703	03/30/2004	Ralph E. Wesinger JR.	GRAPH-005COD	8091
28661	7590	05/18/2006	EXAMINER	
SIERRA PATENT GROUP, LTD. 1657 Hwy 395, Suite 202 Minden, NV 89423			HAQ, NAEEM U	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/813,703

Applicant(s)

WESINGER ET AL.

Examiner

Naeem Haq

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/2/06; 8/16/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Priority

Applicants' claim to priority to co-pending applications (10/703,823), (09/952,985) (09/110,708) and (08/572,543) is denied because the invention claimed in the current application lacks proper support in these earlier filed applications. Accordingly, the examiner will use the filing date of the current application (March 30, 2004) as the earliest priority date of the claimed invention.

Referring to claim 1: The limitations lacking proper support in the earlier filed applications are as follows:

"said page including at least one item to be purchased and an icon for invoking a purchase service";

"thereby invoking said purchase service for said item to be purchased";

"creating a Transaction ID corresponding to said items to be purchased";

"completing said online transaction for said items to be purchased."

Application 08/572,543 (US Patent 5,778,367) is directed to electronically publishing information (col. 2, lines 58-66). The patent describes three utilities: "Whois", "Traceroute", and "WebBook". None of these utilities provide any support for purchasing an item. The specification for patent 5,778,367 describes "WebBook" as a service that allows a user to search, add, or update entries in a database (col. 7, lines 33-38). The specification goes on to teach that if the service is based on a pay-for

service model then the system will charge the user's credit card (col. 9, line 66 – col. 10, line 9) for using the service.

Referring to claims 6 and 18: The limitations lacking proper support in the earlier filed applications are as follows:

“associating, by said purchase service, shipping information corresponding to said User ID, and shipping said items to be purchased to a location corresponding to said shipping information.”

Referring to claims 11 and 23: The limitation lacking proper support in the earlier filed applications is as follows: *“...web site utilizes said email address to identify said user.”*

Referring to claims 12 and 24: The limitation lacking proper support in the earlier filed applications is as follows: *“...said password is supplied to said email address at the request of said user.”*

Referring to claims 13 and 25: These claims lack proper support under the same rationale as set forth above in claim 1.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-12 and 14-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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These claims recite the limitation “mini homepage”. It is unclear to the examiner how a “mini homepage” differs from any other homepage or web page. The Applicants’ specification discloses that Figures 2N and 2O show a “mini homepage” (see paragraph [0039]). However, these figures show nothing more than a standard web page with text. For examination purposes the examiner will assume that a “mini homepage” is a standard web page with text as disclosed in the Applicants’ specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 2, 13, 14, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Montulli (US 5,774,670).

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Referring to claim 1: Montulli discloses a method for facilitating an online transaction comprising:

- associating, by a web site, a user ID with a user (col. 7, lines 45-55; col. 10, lines 25-30);
- presenting to the user a page, said page including at least one item to be purchased and an icon for invoking a purchase service (col. 12, lines 11-27);
- clicking on said icon by the user, thereby invoking said purchase service for said item to be purchased (col. 12, lines 28-47);
- creating a Transaction ID corresponding to said items to be purchased (col. 12, lines 49-56);
- associating, by said purchase service: customer information corresponding to said User ID; purchase information corresponding to said Transaction ID (col. 13, lines 24-30); and
- completing said online transaction for said items to be purchased (col. 13, lines 9-23).

Referring to claim 2: Montulli discloses all the limitations of claim 1 as noted above. Furthermore, Montulli teaches that the page comprises mini homepage corresponding to said user (col. 7, lines 45-55).

Referring to claims 13 and 25: Claims 13 and 25 are rejected under the same rationale as set forth above in claim 1.

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Referring to claim 14: Claim 14 is rejected under the same rationale as set forth above in claim 2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-6, 9, 10, 15-18, 21, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montulli (US 5,774,670).

Referring to claims 3 and 4: Montulli discloses all the limitations of claim 2 as noted above. Montulli does not teach that the mini homepage includes customer information corresponding to the user, or that the customer information comprises credit card information corresponding to said user. However, the Examiner notes that these limitations are not functionally involved in the steps or elements of the recited or apparatus. Therefore these limitations are deemed to be nonfunctional descriptive material. The steps of method would be performed the same regardless of what information the homepage contained. The difference between the content of the Applicants' homepage and the prior art is merely subjective. Thus this nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994) also see MPEP

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2106. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to place any information in the homepage of Montulli because such information does not functionally relate to the elements of the claimed system and because the subjective interpretation of information does not patentably distinguish the claimed invention.

Referring to claim 5: Montulli teaches or suggests all the limitations of claim 4 as noted above. Furthermore, Montulli teaches that the online transaction is completed using the credit card information (col. 13, lines 9-23).

Referring to claim 6: Montulli teaches or suggests all the limitations of claim 5 as noted above. Furthermore, Montulli teaches associating, by said purchase service, shipping information corresponding to said User ID, and shipping said items to be purchased to a location corresponding to said shipping information (col. 13, lines 9-23).

Referring to claims 9 and 10: Montulli discloses all the limitations of claim 3 as noted above. Montulli does not teach that the mini homepage includes content predefined by the user, or that said information includes an email address corresponding to said user. However, the Examiner notes that these limitations are not functionally involved in the steps or elements of the recited or apparatus. Therefore these limitations are deemed to be nonfunctional descriptive material. The steps of method would be performed the same regardless of what information the homepage contained. The difference between the content of the Applicants' homepage and the prior art is merely subjective. Thus this nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re*

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Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994) also see MPEP 2106. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to place any information in the homepage of Montulli because such information does not functionally relate to the elements of the claimed system and because the subjective interpretation of information does not patentably distinguish the claimed invention.

Referring to claims 15 and 16: Claims 15 and 16 are rejected under the same rationale as set forth above in claims 3 and 4 respectively.

Referring to claim 17: Claim 17 is rejected under the same rationale as set forth above in claim 5.

Referring to claim 18: Claim 18 is rejected under the same rationale as set forth above in claim 6.

Referring to claims 21 and 22: Claims 21 and 22 are rejected under the same rationale as set forth above in claims 9 and 10 respectively.

Claims 7, 8, 11, 12, 19, 20, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montulli (US 5,774,670) in view of Official Notice.

Referring to claim 7: Montulli teaches or suggests all the limitations of claim 3 as noted above. Montulli does not teach that the information may be updated by the user. However, Official Notice is taken that it is old and well known in the art for a user to update information. Therefore it would have been obvious to one of ordinary skill in the

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art, at the time the invention was made, to incorporate an updating feature into the cited prior art. One of ordinary skill in the art would have been motivated to do so in order to allow a user to modify his her profile.

Referring to claim 8: The cited art teaches or suggests all the limitations of claim 7 as noted above. Montulli does not teach that the update may only be performed receiving a proper password form the user. However, Official Notice is taken that it is old and well known in the art to allow updating only after receiving a proper password from a user. Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate this feature into the cited prior art. One of ordinary skill in the art would have been motivated to do so in order to secure a user's personal information.

Referring to claims 11 and 12: The prior art teaches or suggests all the limitations of claim 10 as noted above. The prior art does not teach that the web site utilizes an email address to identify a user, or that a password is supplied to said email address at the request of said user. However, Official Notice is taken that it is old and well known in the art to identify a user by an email address and to supply a password to said email address at the request of the user. Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate these features into the prior art. One of ordinary skill in the art would have been motivated to do so in order to secure a user's personal information as taught by Hartman (col. 1, line 66 – col. 2, line 16).

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Referring to claim 23 and 24: These claims are rejected by the same rationale set forth above in claims 11 and 12.

Referring to claim 19: Claim 19 is rejected under the same rationale as set forth above in claim 7.

Referring to claim 20: Claim 20 is rejected under the same rationale as set forth above in claim 8.

Referring to claims 23 and 24: Claims 23 and 24 are rejected under the same rationale as set forth above in claims 11 and 12 respectively.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

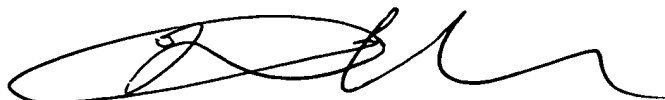
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (571)-272-6758. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Smith can be reached on (571)-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Naeem Haq', with a stylized flourish at the end.

Naeem Haq, Patent Examiner
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May 15, 2006